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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2011-562

MICHELLE RAE ANDERSON
4528 N. Christy Avenue
San Bernardino, CA 92407
Registered Nurse License No. 674440

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about December 22, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-562 against Michelle Rae Anderson ("Respondent") before the Board of Registered Nursing.

2. On or about February 24, 2006, the Board of Registered Nursing ("Board") issued Registered Nurse License No. 674440 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2011, unless renewed.

3. On or about December 22, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-562, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions

1 Code section 136, is required to be reported and maintained with the Board. Respondent's
2 address on record with the Board was and is:

3 **4528 N. Christy Avenue**
4 **San Bernardino, CA 92407.**

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

7 5. On or about January 3, 2011, the domestic return receipt was returned to the Board by
8 the U.S. Postal Service. The aforementioned documents sent via First Class Mail, were not
9 returned by the U.S. Postal Service.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-
18 562.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
27 as well as taking official notice of all the investigatory reports, exhibits and statements contained
28 therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-
562, finds that the charges and allegations in Accusation No. 2011-562, are separately and
severally true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$545.00 as of January 19, 2011.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Michelle Rae Anderson has subjected her Registered Nurse License No. 674440 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

a. **Conviction of Substantially-Related Crimes.** Respondent is subject to disciplinary action under section 2761, subdivision (f) and section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444, for being convicted of a substantially related crime in that on or about June 9, 2010, in the criminal matter entitled *The People of the State of California v. Michelle Rae Anderson* (Super. Ct. San Bernardino County, 2010, No. FSB 1000828), Respondent pled guilty to a felony charge of assault with a deadly weapon, a violation of Penal Code section 245 (a)(1), and a misdemeanor charge of driving under the influence, a violation of Vehicle Code section 23152 (a). On or about August 3, 2010, Respondent was sentenced to formal supervised probation for three years. Respondent was ordered to serve two hundred and seventy days in the San Bernardino County Jail, submit her person and place of residence to search and seizure, submit to drug testing, and complete a fifty-two week domestic violence course. The basis for the conviction is that on or about February 28, 2010, Respondent, while driving a pickup truck under the influence of alcohol, repeatedly rammed into a vehicle that her husband was sitting in.

b. Dangerous Use of Alcohol. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the Code, in that Respondent used alcohol to an extent or in a manner dangerous or injurious to herself, and the public. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 3, subparagraph (a), inclusive.

1 as though set forth fully.

2 **c. Conviction for Alcohol Related Offense.** Respondent is subject to disciplinary
3 action under section 2762, subdivision (c) of the Code, in that Respondent was convicted of a
4 crime involving the use of alcohol. Complainant refers to, and by this reference incorporates, the
5 allegations set forth above in paragraph 3, subparagraph (a), inclusive, as though set forth fully.

6 **d. Confined by Court for Use of Alcohol.** Respondent is subject to disciplinary
7 action under section 2762, subdivision (d) of the Code, in that Respondent was confined by a
8 court of law for the intemperate use of alcohol. Complainant refers to, and by this reference
9 incorporates, the allegations set forth above in paragraph 3, subparagraph (a), inclusive, as though
10 set forth fully.

11 **ORDER**

12 IT IS SO ORDERED that Registered Nurse License No. 674440, heretofore issued to
13 Respondent Michelle Rae Anderson, is revoked.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
15 written motion requesting that the Decision be vacated and stating the grounds relied on within
16 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
17 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

18 This Decision shall become effective on April 18, 2011.

19 It is so ORDERED March 16, 2011

20 
21 FOR THE BOARD OF REGISTERED NURSING
22 DEPARTMENT OF CONSUMER AFFAIRS

23
24 DOJ Matter ID:LA2010601382
25 60603495.DOC

Exhibit A
Accusation Case No. 2011-562

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Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2442
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2011-562

11 **MICHELLE RAE ANDERSON**
12 **4528 N. Christy Avenue**
13 **San Bernardino, CA 92407**
Registered Nurse License No. 674440

A C C U S A T I O N

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
18 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs.

20 2. On or about February 24, 2006, the Board of Registered Nursing issued Registered
21 Nurse License Number 674440 to Michelle Rae Anderson ("Respondent"). The Registered Nurse
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on August 31, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code ("Code") unless otherwise indicated.
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1 "In addition to other acts constituting unprofessional conduct within the meaning of this
2 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
3 following:

4 ...

5 (b) Use any controlled substance as defined in Division 10 (commencing with Section
6 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
7 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
8 himself or herself, any other person, or the public or to the extent that such use impairs his or her
9 ability to conduct with safety to the public the practice authorized by his or her license.

10 (c) Be convicted of a criminal offense involving the prescription, consumption, or self-
11 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
12 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
13 of this section, in which event the record of the conviction is conclusive evidence thereof.

14 (d) Be committed or confined by a court of competent jurisdiction for intemperate use of or
15 addiction to the use of any of the substances described in subdivisions (a) and (b) of this section,
16 in which event the court order of commitment or confinement is prima facie evidence of such
17 commitment or confinement."

18 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
19 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
20 to render a decision imposing discipline on the license.

21 REGULATORY PROVISIONS

22 9. California Code of Regulations, title 16, section 1444, provides:

23 "A conviction or act shall be considered to be substantially related to the qualifications,
24 functions or duties of a registered nurse if to a substantial degree it evidences the present or
25 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
26 safety, or welfare.

27 Such convictions or acts shall include but not be limited to the following:

28 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in

1 subdivision (d) of Penal Code Section 11160.

2 (b) Failure to comply with any mandatory reporting requirements.

3 (c) Theft, dishonesty, fraud, or deceit.

4 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
5 Penal Code."

6 **COST RECOVERY**

7 9. Section 125.3 provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of Substantially-Related Crimes)**

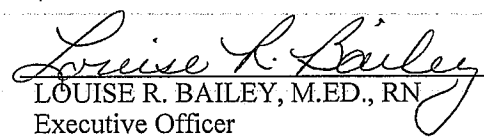
13 10. Respondent is subject to disciplinary action under section 2761, subdivision (f) and
14 section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444, for
15 being convicted of a substantially related crime in that on or about June 9, 2010, in the criminal
16 matter entitled *The People of the State of California v. Michelle Rae Anderson* (Super. Ct. San
17 Bernardino County, 2010, No. FSB 1000828), Respondent pled guilty to a felony charge of
18 assault with a deadly weapon, a violation of Penal Code section 245 (a)(1), and a misdemeanor
19 charge of driving under the influence, a violation of Vehicle Code section 23152 (a).

20 11. On or about August 3, 2010, Respondent was sentenced to formal supervised
21 probation for three years. Respondent was ordered to serve two hundred and seventy days in the
22 San Bernardino County Jail, submit her person and place of residence to search and seizure,
23 submit to drug testing, and complete a fifty-two week domestic violence course.

24 12. The basis for the conviction is that on or about February 28, 2010, Respondent, while
25 driving a pickup truck under the influence of alcohol, repeatedly rammed into a vehicle that her
26 husband was sitting in.

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DATED: 12/22/10


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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